

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil No. C-1-02-107
)	
THE BOARD OF COUNTY)	Judge S. Arthur Spiegel
COMMISSIONERS, HAMILTON)	
COUNTY, OHIO, et al.,)	
)	
Defendants.)	
_____)	
STATE OF OHIO,)	
)	
Plaintiff,)	
)	
v.)	
)	
THE BOARD OF COUNTY)	
COMMISSIONERS OF HAMILTON)	
COUNTY, OHIO and THE CITY OF)	
CINCINNATI,)	
Defendants.)	
_____)	

UNITED STATES' MOTION FOR ENTRY OF CONSENT DECREES

The United States of America, on behalf of the United States Environmental Protection Agency, respectfully requests this Court to enter the proposed Interim Partial Consent Decree for Sanitary Sewer Overflows ("IPCD"), as filed with the Court on August 20, 2002,^{1/} Doc. 56, and

^{1/} The IPCD was initially lodged with the Court on February 15, 2002, Doc. 2. Following the public comment period, the parties to the IPCD agreed to certain minor revisions, including revisions to address certain comments Sierra Club had made on the decree. The parties re-executed the decree and filed the revised decree on August 20, 2002 as Attachment 1 to the United States' Motion for Entry of the Consent Decree, Doc. 56. Subsequently, this Court ordered the motion for entry of the IPCD to be "[held] in abeyance . . . until such time as the second round of negotiations in the Parties' two-phased remedial strategy is complete, after

the Consent Decree on Combined Sewer Overflows, Wastewater Treatment Plants and Implementation of Capacity Assurance Program Plan ("Final Decree"), as lodged on December 3, 2003, Doc. 101. The decrees resolve the claims in the Joint Amended Complaint, Doc. 100, filed by plaintiffs the United States, the State of Ohio, and the Ohio River Valley Water Sanitation Commission ("ORSANCO") against defendants for various violations of the Clean Water Act, and related Ohio and ORSANCO laws and regulations.

As required by regulation, the United States has reviewed the public comments received in detail and finds nothing to suggest that the decrees are inappropriate, improper or inadequate. 28 C.F.R. § 50.7. On the contrary, the decrees are wholly appropriate and comport with the standard for approval of a consent decree enunciated by the Sixth Circuit. United States v. Akzo Coatings of America, Inc., 949 F.2d 1409, 1426 (6th Cir. 1991) (standard is one of "fairness, reasonableness and consistency with the statute").

Accordingly, the United States requests that its motion be granted and that the IPCD and Final Decrees be entered as Orders of this Court.

Respectfully submitted,

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which time the Court shall consider the two decrees together." Doc. 90, Order, Jan. 28, 2003, at p.2.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing, United States Motion for Entry of Consent Decrees, and its associated Memorandum in Support and attachments, was served on the 16th day of April, 2004, electronically on:

Donneta D. Wiethe; Gary Prichard; Margaret A. Malone; J. Steven Justice; Christopher J. Buckley; Peter P. Murphy (for himself and Michael K. Murphy); Kevin M. St. John; Nee Fong Chin; Terrance A. Nestor (for himself and the Cincinnati City Solicitor); Albert J. Slap; D. David Altman (for himself and Amy Jo Leonard); and Lance D. Himes.



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